

THE LAW FIRM OF RAVI BATRA, P.C.
Attorneys for Plaintiff In Touch Concepts, Inc. d/b/a Zcom
The Batra Building
142 Lexington Avenue
New York, NY 10016
Ravi Batra, Esq. (RB 4299)
(212) 545-1993
(212) 545-0967 (fax)
E-Mail: ravi@ravibatralaw.com

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN TOUCH CONCEPTS, INC., d/b/a ZCOM,

Plaintiff,

-against-

CELLCO PARTNERSHIP d/b/a
VERIZON WIRELESS, *et. al.*,

Defendants.

**Civil Action Number:
13 CV 1419 (PKC)**

**NOTICE OF MOTION FOR RECONSIDERATION
PURSUANT TO L. CIV. R. 6.3**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and upon the prior papers and proceedings herein, the plaintiff **IN TOUCH CONCEPTS, INC., d/b/a ZCOM**, by its attorneys **THE LAW FIRM OF RAVI BATRA, P.C.** will move this Court, United States District Judge P. Kevin Castel, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, Courtroom 12C, on at a return date to be established by Order of the Court and pursuant to the Individual Practices of Judge Castel for:

1. an Order pursuant to L. Civ. R. 6.3, granting the plaintiff reconsideration and/or reargument of the Court's Order of March 4, 2014 (DE 133) which denied Zcom's motion dated and filed January 21, 2014 (DE 124), which

A. sought an Order: (i) pursuant to 28 U.S.C. 455(a) disqualifying Hon. P. Kevin Castel from the instant matter upon the grounds that "his impartiality might reasonably be questioned;" (ii) vacating Orders tainted by the appearance, or even perceived appearance of partiality, to wit: Order of June 4, 2013 (DE 87); Order of November 18, 2013 (DE 93); Order of November 20, 2013 (DE 97); Order of November 27, 2013 (DE 100); Order of December 2, 2013 (DE 103); Order of December 3, 2014 (DE 104); and, the discovery provisions of the Order of January 2, 2014 (DE 110); (iii) Pursuant to 28 U.S.C. 1367, declining supplemental jurisdiction over Zcom's claims and remanding them back to the Supreme Court of the State of New York, New York County; and, (iv) pursuant to Rule 16 of the Local Rules for the Division of Business Among District Judges, randomly reassigning Cellco Partnership's declaratory judgment action to a different United States District Judge in and for the Southern District of New York,

B. alternatively sought an Order: (i) pursuant to 28 U.S.C. 455(a) disqualifying Hon. P. Kevin Castel from the instant matter upon the grounds that "his impartiality might reasonably be questioned;" (ii) vacating Orders tainted by the appearance, or even perceived appearance of partiality, to wit: Order of June 4, 2013 (DE 87); Order of November 18, 2013 (DE 93); Order of November 20, 2013 (DE 97); Order of November 27, 2013 (DE 100); Order of December 2, 2013 (DE 103); Order of December 3, 2014 (DE 104);

and, the discovery provisions of the Order of January 2, 2014 (DE 110); (iii) substituting an Order pursuant to Fed. R. Civ. P. 15(a)(2) granting Zcom leave to interpose a Second Amended Complaint, without a page limitation, in the place and stead of the Order of November 20, 2013 (DE 97); and, (iv) pursuant to Rule 16 of the Local Rules for the Division of Business Among District Judges, randomly reassigning Cellco Partnership's declaratory judgment action to a different United States District Judge in and for the Southern District of New York,

2. Vacating the March 4, 2014 Order and in its place and stead an Order be issued and entered:

- a. Granting the relief sought in Zcom's motion dated and filed January 21, 2014 (DE 124);
- b. pursuant to 28 U.S.C. 455(a) disqualifying Hon. P. Kevin Castel from the instant matter upon the grounds that "his impartiality might reasonably be questioned;"
- c. vacating Orders tainted by the appearance, or even perceived appearance of partiality, to wit: Order of June 4, 2013 (DE 87); Order of November 18, 2013 (DE 93); Order of November 20, 2013 (DE 97); Order of November 27, 2013 (DE 100); Order of December 2, 2013 (DE 103); Order of December 3, 2014 (DE 104); and, the discovery provisions of the Order of January 2, 2014 (DE 110);
- d. pursuant to 28 U.S.C. 1367, declining supplemental jurisdiction over Zcom's claims and remanding them back to the Supreme Court of the State of New York, New York County, or, as an alternative to this prong, substituting an Order pursuant to Fed.

R. Civ. P. 15(a)(2) granting Zcom leave to interpose a Second Amended Complaint, without a page limitation, in the place and stead of the Order of November 20, 2013 (DE 97);

e. pursuant to Rule 16 of the Local Rules for the Division of Business Among District Judges, randomly reassigning Cellco Partnership's declaratory judgment action to a different United States District Judge in and for the Southern District of New York, and,

f. for such other and further relief, favorable to Zcom, as the Court may find just, proper and equitable.

PLEASE TAKE FURTHER NOTICE that pursuant to L. Civ. R. 6.3, the time periods for the service of answering and reply memoranda, if any, shall be governed by L. Civ. R. 6.1(b).

Dated: New York, New York
March 17, 2014

Respectfully submitted,
THE LAW FIRM OF RAVI BATRA, P.C.
Attorneys for Plaintiff In Touch Concepts, Inc.
d/b/a Zcom

Ravi Batra, Esq. (RB4299)
142 Lexington Avenue
New York, NY 10016
(212) 545-1993
E-Mail: ravi@ravibatralaw.com

To:

Clerk of the Court (Via ECF)
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Hon. P. Kevin Castel (Via ECF and Hard Copy per Individual Practice 2B)
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Greenberg Traurig, LLP (Via ECF)
Attorneys for Cellco Partnership d/b/a Verizon Wireless,
Ryan Broomes and Jorge Velez
200 Park Avenue
New York, NY 10166
(212) 801-9200

Pepper Hamilton LLP (Via ECF)
Attorneys for Thomas Varghese
3000 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103
(215) 981-4000

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